

**REMARKS**

**I. INTRODUCTION**

Claims 13-17 and 19-26 are pending in the Application. The undersigned representative thanks the Examiner and her Supervisor for granting the personal interview on January 25, 2007, to discuss the claims in view of the cited documents. By this Amendment, claim 13 is amended to more particularly recite the features of the telephone securing apparatus. Claim 18 is canceled. New claims 25 and 26 are added. In view of the following remarks and arguments, Applicant respectfully submits that the Application is in condition for allowance and respectfully solicits a notice stating the same. Prompt reconsideration is respectfully requested.

**II. CLAIM REJECTIONS UNDER 35 U.S.C. § 102**

In numbered paragraphs 1-2 on pages 2-4 of the Office Action dated October 10, 2006, claims 13-15, 17, and 19-24 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,640,542 to Watjer *et al.* ("Watjer"). The rejection is respectfully traversed. Nevertheless, by this Amendment, claim 13 is amended to more particularly recite the features of the telephone securing apparatus by incorporating the features recited in previous claim 18. Reconsideration is respectfully requested.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); *see* M.P.E.P. § 2131. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Claim 13, as amended, recites:

An apparatus for securing a telephone having a housing and a contact mechanism, the housing being elongate with a width, thickness, and length, the apparatus comprising:  
a holder for the telephone; and

***a mating contact unit for engaging the contact mechanism of the telephone, said mating contact unit being pivotable through a pivot angle and longitudinally displaceable in the holder*** such that the holder accommodates and secures at least part of the housing of the telephone in an operating position, ***wherein said mating contact unit comprises a body and means for establishing a connection with the telephone arranged on the body perpendicular to an axis of rotation of the body.***

Thus, claim 13 recites “a mating contact unit for engaging the contact mechanism of the telephone, said mating contact unit being pivotable through a pivot angle and longitudinally displaceable in the holder” and further recites that “said mating contact unit comprises a body and means for establishing a connection with the telephone arranged on the body perpendicular to an axis of rotation of the body” as previously recited in claim 18. As noted in paragraph 0012 on page 3 of the substitute specification filed February 26, 2003, this configuration has the advantage that “[p]ressure on the contact mechanism thus does not result in any torque about the axis of rotation, and the compressive force is absorbed by the holder without any yielding movement.”

In contrast to claim 13, Watjer purportedly teaches a mobile phone mount 110 for use in a vehicle, the mount 110 including a housing 112 and a carriage 1118 slidably mounted within housing 112. Carriage 118 is biased by a spring 124 to slide along guide tracks 146, 148 to shift the telephone 120 from a storage position (FIG. 11) to an accessible position (FIG. 12). *See* FIGS. 11-12; column 5, lines 4-35. Page 5 of the Office Action acknowledges that Watjer fails to teach a “mating contact unit [comprising] a body and means for establishing a connection with the telephone arranged on the body perpendicular to an axis of rotation of the body” (emphasis in original). Therefore, at least claim 13, as amended, is not anticipated by Watjer. Claims 14, 15, 17, and 19-24 depend variously from claim 13 and are, therefore, submitted as being allowable for at least the same reasons. Reconsideration is respectfully requested.

### **III. CLAIM REJECTIONS UNDER 35 U.S.C. § 103**

In numbered paragraphs 3-4 on pages 4-5 of the Office Action, claims 16 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Watjer. The rejection is respectfully traversed. By this Amendment, claim 13 is amended to include the features recited in previous claim 18. Claim 18 is canceled.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See M.P.E.P. § 2143.

According to the Office Action, the Examiner interprets Watjer such that the contact area between the carriage 118 and the back of telephone 120 is considered to be the “mating contact unit” and states that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to adjust the carriage 118 to pivot parallel to the guide tract [sic] or perpendicular to the guide track in according [sic] to housing and use position that made it easy for the operator to grasp.” Notwithstanding the fact that the foregoing statement of motivation is vague and unclear, the Applicant respectfully disagrees. There is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify Watjer as proposed in the Office Action. Moreover, even assuming, *arguendo*, that such a modification was properly suggested, it is not clear from the Examiner’s reasoning that such modification would result in the invention as set forth in claim 13. That is, even if it would have been obvious to “adjust the carriage 118 to pivot parallel to the guide tract [sic] or perpendicular to the guide track in according [sic] to housing and use position that made it easy for the operator to grasp,” the Applicant does not believe that such a modification would result in a “mating contact unit [comprising] a body and means for establishing a connection with the telephone arranged on the body perpendicular to an axis of rotation of the body” as recited in amended claim 13. Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 16 depends from amended claim 13 and is submitted as being allowable for at least the same reasons.

#### **IV. NEW CLAIMS 25 AND 26**

By this Amendment, new claims 25 and 26 are added. Claim 25 is previous claim 13 rewritten to include the features recited in previous claim 17. Specifically, claim 25 recites a “mating contact unit . . . adapted to be moved from [a] first position into [an] operating position by a) a pivoting movement, b) at least one of a subsequent pivoting movement and a subsequent

sliding movement, and c) a rearward sliding movement. It is respectfully submitted that Watjer neither anticipates or renders unpatentable new claim 25, because the carriage in Watjer is not arranged to move from a first position to an operating position according to the movements provided in new claim 25.

New claim 26 is also believed to be patentable over Watjer because Watjer fails to teach at least "a contact means arranged on the body perpendicular to an axis of rotation of the body and adapted to engage the contact unit of the telephone, wherein the mating contact unit is pivotable through a pivot angle from a first discharge position and subsequently longitudinally displaceable into a second secured position."

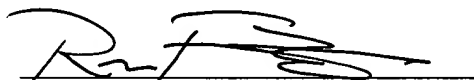
V. CONCLUSION

All of the stated grounds of rejection are believed to have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. An early notice to that effect is respectfully requested.

The Examiner is respectfully requested to contact Applicant's undersigned Representative if necessary to place the application in condition for allowance. Prompt reconsideration is respectfully requested.

Date: 2/12/07

Respectfully submitted,



Robert Kimberg

Registration No. 26,924

Ryan M. Flandro

Registration No. 58,094

VENABLE

P.O. Box 34385

Washington, D.C. 20043-9998

Telephone: (202) 962-4800

Telefax: (202) 962-8300